



Executries

There are certain formalities which need to be attended to when someone dies. We can help make the process easier for you and your family.

What to do when someone dies

The death must be registered and there will be funeral arrangements to take care of. It may be that the deceased left instructions for their funeral with their Will and so it is worth phoning their solicitor to find out (if we hold the Will, we can usually let you know immediately). You can find further information about registering a death from the General Register Office for Scotland.

Winding up the estate

What to bring with you – to help us ascertain the extent of the estate, it would be useful if you bring the death certificate, personal papers, bank statements, share certificates, title deeds, and any other documents which you think might be important. If you wish, we can deal with phone bills, council tax, utility bills, insurance, and so on – we can help to ease the burden and worry if there is an empty house, and deal with day-to-day practicalities. We can deal with valuing the house, the contents and having the house cleared, if necessary.

Small estates – estates totalling less than £30,000 can be dealt with directly through the Sheriff Court. More information on this can be obtained from your local Sheriff Court or at www.scotcourts.gov.uk.

Insolvent estates – in cases where there are a lot of outstanding debts and the estate may be insolvent, the executry will be referred to a licensed insolvency practitioner.

What is the process to wind up the estate?

We will collect information to complete an inventory of all the assets and liabilities of the deceased's estate. This involves liaising with banks, building societies, investment providers and brokers, lenders, insurance providers, utility companies and so on.

We will then calculate whether there is any Inheritance Tax (sometimes known as death tax) to pay and discuss payment options. This has to be paid before we can apply for Confirmation (known as Probate in England).

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Application for Confirmation is lodged with the Sheriff Court and Confirmation is usually issued within 7-10 days. Confirmation is the document that gives the executors of the estate legal title to deal with the assets and to distribute them in accordance with the provisions of the Will.

Once we have Confirmation, we will request release of funds and transfer or sell the various assets in the estate. Any outstanding debts and bills, including funeral expenses, will be paid, and then we may make interim payments to beneficiaries. If the deceased's house is to be sold, our property team is ideally placed to market the property and deal with the conveyancing.

Our experts are also able to advise beneficiaries on the tax implications of inheriting property or other assets. We can help beneficiaries to protect their assets, manage their investments and plan for the future, including their own tax and inheritance planning.

Throughout the process of winding up the executry, we keep accounts and records of payments made and funds received. We will prepare final accounts for the executors to approve before distributing the remainder of the estate in terms of the Will.

What if there is no Will?

If the deceased has not left a Will, there is an additional step at the beginning to appoint an executor. There are rules as to who can be appointed in such cases, and we will discuss with you who this should be. An application is made to the Sheriff Court, and along with this we must provide a Bond of Caution. This is an insurance policy to cover any future claims on the estate.

Once we have the Bond of Caution and the executor has been appointed by the Court, the administration of the estate is broadly the same as if there had been a Will. We will draw up the inventory, pay any inheritance tax due, apply for Confirmation (known as Probate in England), deal with having funds released and assets transferred or sold, provide accounts and make final distributions to beneficiaries.

Who are the beneficiaries if there is no Will?

There are rules laid down as to who inherits the estate if there is no Will left by the deceased. It is not the case that spouses or civil partners automatically inherit everything, although they do have certain rights. Children also have rights, and then there are rules laid down in law as to the order in which other family may inherit. The result of this can sometimes be surprising and we recommend that everyone makes a Will in order to be certain of who will inherit their estate.

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